

This letter provides a reference to the Department's Service Occupation Tax rules. See 86 Ill. Adm. Code Part 140. (This is a GIL.)

February 25, 2004

Dear Xxxxx:

This letter is in response to your letter dated July 28, 2003, in which you request information. We apologize for the delay in responding to your inquiry. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

On behalf of our client, 'Taxpayer', AAA respectfully requests a letter ruling from the state of Illinois as to the proper application of state and local sales and use taxes to the transactions identified below.

STATEMENT OF FACTS

Taxpayer provides health and medical record processing services to attorneys, insurance companies, governmental entities, patients, physicians, hospitals, and other requesting parties, hereinafter ('Customers'). Taxpayer's services are performed by Taxpayer's employees utilizing equipment (i.e. laptop computers, scanners, etc...) provided by Taxpayer. These services are performed by Taxpayer's employees from hospitals, physicians' offices, of employees' home offices; which are located in the state of Illinois.

In practice, upon Taxpayer receiving a request from customers for a copy of a patient's health and medical records, hereinafter ('Information'), Taxpayer will visit the hospital, physician's office, or other location where the particular information is located. Upon arriving at the hospital, physician's office, or similar location where the particular information is located, employees may facilitate the customer's request by either one of two methods.

METHOD ONE

Method one encompasses Taxpayer utilizing a laptop computer, scanner, or other similar electronic medium to electronically 'scan' and save the requested information. Upon securing the scanned information, the employee electronically transmits the scanned information to Taxpayer's facility in CITY/STATE. When the information is received at Taxpayer's STATE facility, the information is processed and, depending on the customer's election, either an electronic version of the information is transmitted to the customer or a hardcopy version is printed and mailed to the customer.

METHOD TWO

Method two encompasses an employee visiting the hospital, physician's office, or location where the medical records and related information are located to physically photocopy the requested information. Upon the requested information being photocopied, the employee will subsequently mail the requested information to the customer from the hospital, physician's office, or location where the medical records and related information are located.

INVOICE COMPONENTS

Upon providing any of the above services, the Taxpayer invoices the customer a separately stated charge for the requested service. Below please find the various possible components of a typical transaction, and an explanation of each component.

- Basic/Retrieval Fee: A separately stated flat fee charged for locating the records.
- Quickview Delivery Fee: A separately stated fee to electronically access and view the contents of the delivered information via the Internet.
- Per Page Fee: A separately stated fee for each page of the medical record that is either scanned or photocopied.
- Postage Fee: A separately stated fee for the postage associated with mailing a hardcopy of the individual's medical record. This fee does not contain a markup for profit.
- Handling Fee: A separately stated charge, distinct from the charge for postage, associated with mailing a hardcopy of the individual's medical record.
- E-Disclose Fee: A separately stated fee to track and confirm the status of the information being delivered.
- Certification Fee: A separately stated fee to certify the information.
- Notarization Fee: A separately stated fee to notarize the information.
- Deposition Fee: A separately stated fee to affirm that the information is suitable to be utilized in a legal deposition.
- Docustore Fee: A separately stated fee to electronically store the information.

ISSUES

Since Taxpayer provides employees with tangible personal property (scanners and computers) to perform the above services within the state of Illinois, the Taxpayer has concluded that it has nexus for sales and use tax purposes. Consequently, the Taxpayer would like the state's assistance concerning the following:

- 1) Are the separately stated 'Basic/Retrieval Fees', as defined above, subject to sales tax?
- 2) Are the separately stated 'Quickview Delivery Fees', as defined above, subject to sales tax?
- 3) Are the separately stated 'Per Page Fees', calculated on a per page basis for photocopying information subject to sales tax?
- 4) Are the separately stated 'Per Page Fees' calculated on a per page basis for scanning information into an electronic format subject to sales tax?
- 5) Are the separately stated 'Postage Fees', as defined above, subject to sales tax?
- 6) Are the separately stated 'Handling Fees', as defined above, subject to sales tax?
- 7) Are separately stated 'E-Disclose Fees', as defined above, subject to sales tax?
- 8) Are separately stated 'Certification Fees', as defined above, subject to sales tax?
- 9) Are separately stated 'Notary Fees', as defined above, subject to sales tax?
- 10) Are separately stated 'Deposition Fees', as defined above, subject to sales tax?
- 11) Are the separately stated 'Docustore Fees', as defined above, subject to sales tax?
- 12) Are the scanners, laptop computers, and similar electronic media utilized in Method One and/or Method Two services deemed processing equipment so as to be exempt from sales and use tax when purchased?

If the Department/Division of Taxation/Revenue has any questions or requires any additional information from the Taxpayer in order to provide Illinois sales and use tax consequences of the above described situations, please contact either PERSON.

Thank you in advance for your cooperation and attention to this matter.

DEPARTMENT'S RESPONSE:

We regret that we cannot provide you with a specific answer in the context of a General Information Letter. Please see the Department's rules on our website regarding Service Occupation Tax – 86 Ill. Adm. Code Part 140.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk